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Attorneys for Defendants:  
JINTANA NOOCHLA

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

Rafael Arroyo, Jr.,

Plaintiff,

vs.

APM Investments, LLC, et al.

Defendants.

Case No. 2:17-CV-03922

**DEFENDANT JINTALA  
NOOCHLA'S OBJECTION TO THE  
SUMMARY JUDGMENT MOTION  
AND DECLARATION OF GENE H.  
SHIODA**

[RULE 56(d); L.R. 6-1, 7-3, 7-9]

Motion service date: September 14,  
2018.

Hearing date noticed: September 19,  
2018.

**OBJECTION TO THE SUMMARY JUDGMENT MOTION FILED BY**

**PLAINTIFF**

PURSUANT TO RULE 56(d) of The Federal Rules of Civil Procedure,  
Defendant JINTANA NOOCHLA, through his undersigned counsel of record,

1 objects to and opposes the motion for summary judgment motion filed by Plaintiff  
2 Rafael Arroyo, Jr. as set forth herein:

3 (1) Insufficient notice and no opportunity to oppose. The motion for  
4 summary judgment filed as document number 37 in this action [was filed and  
5 electronically served on September 14, 2018, at 4:23PM] set for hearing on  
6 September 19, 2018, providing less than five days notice to parties to oppose prior to  
7 hearing.  
8

9 (2) Facts made unavailable to nonmovant. The motion should be denied  
10 pursuant to Fed. Rules of Civ. Proc. Rule 56(d), which provides:  
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12 When Facts Are Unavailable to the Nonmovant. If a nonmovant shows by  
13 affidavit or declaration that, for specified reasons, it cannot present facts  
14 essential to justify its opposition, the court may:  
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16 (1) defer considering the motion or deny it;  
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18 (2) allow time to obtain affidavits or declarations or to take discovery; or  
19

20 (3) issue any other appropriate order.  
21

22 (3) Motion violates notice requirement of Local Rules. The motion violates  
23 Local Rule 6-1, by failing to provide twenty-eight days notice of motion if filed and  
24 served electronically, or thirty-one days before the hearing date, if served by mail.  
25

26 (4) Failure to meet and confer. The motion violates Local Rule 7-3, in failing  
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28

1 to comply with the meet and confer requirements of counsels contemplating a motion.

2 No meeting and conference of counsel was conducted prior to the filing of the motion.

3  
4 (5) Motion violates minimum time provided to nonmovant for filing an  
5 opposition. The motion which provides less than five days of notice prior to hearing,  
6 prevents nonmovant from complying with Local Rule 7-9, which requires an  
7  
8 opposition to be filed no less than ten days after service of the motion.

9 The aforementioned objections are supported by the declaration of Gene H.  
10 Shioda attached to and incorporated to this objection document.  
11

12  
13  
14 Date: September 17, 2018

By: /S/  
Gene H. Shioda,  
Attorney for Defendant  
JINTANA NOOCHLA

**DECLARATION OF GENE H. SHIODA**

I, GENE H. SHIODA, declare as follows:

1. I am familiar with facts contained herein and will and can testify to the matters stated herein.

2. I am counsel of record for Defendant Jintana Noochla in this action.

3. The motion for summary judgment [filed as document number 37 in this action] was filed and electronically served on September 14, 2018, at 4:23PM, set for hearing on September 19, 2018, providing less than five days notice to parties to oppose prior to hearing. September 14, 2018 was Friday, and the motion was not fully reviewed until Monday, September 17, the date of this objection.

4. There is insufficient time provided by the motion to investigate the facts set forth in the evidentiary declarations of the moving papers, specifically the declarations of Janis Kent [Doc. 37-11], and Declaration of Evens Louis [Doc. 37-9].

5. There is insufficient time to review the authorities cited by the movant in support, and insufficient time to identify counter-authorities within the five days prior to hearing.

6. There was no meet and confer between counsels as required by Local Rule prior to the filing and service of the motion, and I was unaware of the intent to file said motion by Plaintiff and his counsel.

1           7. Any opposition filed against the motion would be less than the 10 days  
2 provided to nonmovants to file and serve papers in opposing a motion and provide no  
3 opportunity to the movant to reply.  
4

5  
6           I declare under penalty of perjury that the foregoing is true and correct under  
7 the laws of the United States of America. Executed in Los Angeles, California, on  
8 September 17, 2018.  
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10  
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12                               /S/  
13                               Gene H. Shioda, Declarant  
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United States of District Court, Northern District of California

**CERTIFICATE OF SERVICE**

I am a citizen of the United States of America and I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 5901 W. Century Blvd., Ste. 750, Los Angeles, CA 90045.

On September 17, 2018, I served the following documents described as:

**DEFENDANT JINTALA NOOCHLA'S OBJECTION TO THE SUMMARY  
JUDGMENT MOTION AND DECLARATION OF GENE H. SHIODA**

On the interested parties in this action as follows:

Dennis Jay Price , II, Esq.  
Phyl Grace, Esq.  
Center for Disability Access  
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[Attorneys for Plaintiff Rafael Arroyo, Jr.]

Lara Ruth Shapiro, Esq.  
Lara Shapiro Attorney at Law  
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[Attorneys for Defendant APM Investments, LLC]

☒ **By ECF Notification** I filed this document electronically with PACER/ECF and stated parties received notification by e-mail from the ECF filing system.

☐ **By Mail**, I deposited such envelop in the United States postal service on that same day with postage thereon fully prepaid at Los Angeles, following ordinary business practices.

☐ **By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses above. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

☒ **By Electronic Transmission**, I transmitted a PDF version by electronic mail to the party(ies) identified above, using the e-mail address(es) indicated.

☐ **By Facsimile**, I sent a copy of said document by fax machine for instantaneous transmittal via telephone line to the offices of his addressee(s) listed above using the telephone/facsimile numbers listed above. The transmission was reported as complete and without error.

☐ **By Personal Service**, I provided a copy of said document to Attorney Service, Inc. who is to deliver it via personal delivery to the party(ies) at the addresses listed above.

I declare that I am employed in the office of a member of the bar in this court at whose direction the service was made. Executed on September 17, 2018, at Los Angeles, California.

/s/ Vivian Joo  
Vivian M. Joo